

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. CLAIM STATUS AND AMENDMENTS

Claims 18-19 have been cancelled, the subject matter of those claims being incorporated into claims 3 and 9 respectively.

These amendments address the stated basis of rejection under section 112, second paragraph.

Withdrawal of the section 112, second paragraph rejection is solicited.

Claim 17 has been amended to replace the term "it" with "rosette plant".

Claims 1 and 6 have to recite "with a cutting element, cutting off the lump piece along a cutting plane parallel to the longitudinal axis, while closing the longitudinal opening, so that the introduced cut-off lump piece is enclosed in the holder, such that the holder encloses the introduced part of the lump piece, at least in combination with the cutting element, along a substantially complete circumference around the longitudinal axis of the holder, so that a sprout retains pointing in a direction remote from a growing medium;" and "a first cutting element for cutting off a lump piece of said rosette plant along a cutting plane parallel to the longitudinal axis, while closing the longitudinal opening, so that an introduced part of the cut-off lump piece is enclosed in the holder, such that the holder

enclosed the introduced part of the lump piece, at least in combination with the cutting element, along a substantially complete circumference around the longitudinal axis of the holder, so that a sprout retains pointing in a direction remote from a growing medium".

Support for these recitations can be found at least at page 3, lines 4-5 and page 6, line 27 through page 7, line 5.

No new matter has been added by the above claim amendments.

New dependent claims 18 and 19 have been added. Support can be found in claims 3 and 9 and the disclosure, for example, at page 3, lines 1-5. No new matter has been added.

Claims 1-17 are pending upon entry of this amendment.

II. PRIOR ART REJECTIONS

Claims 1, 2, and 6-8 were rejected under 35 U.S.C. § 102(b) as anticipated by MEESTER (U.S. 2,167,337).

Claims 1, 3, 6, 7, and 9 were rejected under 35 U.S.C. § 102(b) as anticipated by GROVES (U.S. 5,899,019).

Claims 1 and 6 were rejected under 35 U.S.C. § 102(b) as anticipated by AKERSON (U.S. 4,361,959).

Claims 1, 5, 6, 12, and 17 were rejected under 35 U.S.C. § 102(e) as anticipated by ROMBOUTS (US2004/0118041).

Claims 4, 10, and 11 were rejected under 35 U.S.C. § 103(a) as obvious over AKERSON (U.S. 4,361,959).

Claims 13-15 were rejected under 35 U.S.C. § 103(a) as obvious over ROMBOUTS (US2004/0118041).

Claim 16 was rejected under 35 U.S.C. § 103(a) as obvious over MEESTER (U.S. 2,167,337).

The present invention regards a method and apparatus for cutting a lump piece of a rosette plant into parts within an automated rosette plant multiplication process. From the cut-off parts, new lump pieces are grown, which may be used for further multiplication. The cut-off part of the lump piece is enclosed in a holder to enable careful further processing.

Regarding the deemed lack of novelty of claim 1

Meester and Groves both regard the stripping of thorns and excess foliage from stem plants, which significantly differs from separating a lump piece of rosette plants, as prescribed in claim 1. The cutting of rosette plants during the multiplication process is more difficult than the cutting of stem plants. The cutting of rosette plants nearly always takes place sterily (p.l, 1.23) and it is important to damage the growing points as little as possible (p.l, 1.23). To enable such a delicate handling, the method of the amended claim 1 prescribes that after cutting, the cut-off part of the lump piece 'is enclosed in the holder', such that the holder encloses the introduced part of the lump piece, at least in combination with the cutting element, along a

substantially complete circumference around the longitudinal axis of the holder, so that the sprout retains pointing in a direction remote from a growing medium. As can be seen from FIG. 1 of Meester and FIG. 2 of Groves, both the thorn removing device and the stripping tool do not protect the stem plant by enclosing the cut-off part in such a way. This is no surprise, since the stripping of thorns and excess foliage from stem plants does not require such protection.

Akerson regards a brush cutter and cutting brush obviously differs from the cutting of rosette plants. With regard to Meester and Groves, the multiplication of rosette plants requires a delicate handling. The goal of cutting brush, on the contrary, is that the cut-off part of the brush dies after cutting. It might even be dead before cutting. From FIG. 5 of Akerson it is clear that the cut-off part of the brush will fall out of the holder. It is not enclosed in the holder, in the way prescribed by the new claim 1. Again, this is no surprise, since there is no need to.

Rombouts concerns the mechanical separation of cuttings from a plant branch. A plant branch is much more robust than a rosette plant and does not need the same care. Rombouts cutting mechanism holds the cut-off branch securely clamped between two pressure exerting pieces [0043]. The cut-off part is not

enclosed in a holder, in the way prescribed by the new claim 1 of the present invention. Again, there's no need to.

In this light, Meester, Groves, Akerson and Rombouts neither teach nor suggest the present claim 1.

Regarding the deemed lack of novelty of claim 6

In terms of the new claim 6, Meester discloses (terms between brackets from Meester) an elongated holder (the thorn removing device itself) which comprises a longitudinal opening (the opening between arms 1 and 2) at least along the longitudinal axis (axis parallel to the arms 1 and 2). Further, the new claim 6 prescribes a first cutting element for cutting off a lump piece along a cutting plane parallel to the longitudinal axis, while closing the longitudinal opening, such that an introduced part of the lump piece is enclosed in the holder, wherein the holder encloses the introduced part of the lump piece, at least in combination with the cutting element, along a substantially complete circumference around the longitudinal axis of the holder, so that the sprout retains pointing in a direction remote from a growing medium.

When considering the knives 6 and 7 the first cutting element, there are two candidates for 'the lump piece that is to be cut-off.'

First, the thorns and foliage may be considered the lump piece to be cut off. In that case, the cut-off thorns and foliage will fall on the ground and the holder does not enclose the introduced part of the lump piece, as prescribed by the new claim 6.

Second, the stem may be considered the lump piece to be cut off. In that case, the knives 6 and 7 do not cut the stem and therefore, the lump piece is not cut while closing the longitudinal opening, as prescribed by the new claim 6.

It is noted that the thorn removing device comprises two more knives 31 and 32 so that the device can also be used as a shear for cutting stems (p.1, c.2, 1.40 – 42). When considering these knives the first cutting element, the only candidate for 'the lump piece that is to be cut-off' is the stem. In that case, the part that is cut off from the stem will fall on the ground and the holder does not enclose the introduced part of the lump piece, as prescribed by the new claim 6. Therefore the present application is novel over Meester.

In terms of claim 6, Groves discloses (terms between brackets from Groves) an elongated holder (the stripping tool itself) which comprises a longitudinal opening (the opening between handles 28a and 28b) at least along the longitudinal axis (axis parallel to handles 28a and 28b). Further, claim 6

prescribes a first cutting element for cutting off a lump piece along a cutting plane parallel to the longitudinal axis, while closing the longitudinal opening, such that an introduced part of the lump piece is enclosed in the holder, wherein the holder encloses the introduced part of the lump piece, at least in combination with the cutting element, along a substantially complete circumference around the longitudinal axis of the holder, so that the sprout retains pointing in a direction remote from a growing medium.

When considering the side stripping blades 40a en 40b the first cutting element, there are two candidates for 'the lump piece that is to be cut-off.'

First, the thorns and foliage may be considered the lump piece to be cut off. In that case, the cut-off thorns and foliage will fall on the ground (see FIGS. 9 and 10) and the holder does not enclose the introduced part of the lump piece, as prescribed by the new claim 6.

Second, the stem may be considered the lump piece to be cut off. In that case, the side stripping blades 40a en 40b do not cut the stem and therefore, the lump piece is not cut while closing the longitudinal opening, as prescribed by the new claim 6. Therefore the present application is novel over Groves.

In Akerson, the longitudinal opening comprised in the holder, is the opening between edge 55 of blade 50 and edge 63 of blade 60, as is best seen in FIG. 5. Opposite the longitudinal opening, the holder also comprises a second opening, which makes perfect sense, since Akerson regards a brush cutter. Regarding the size of this second opening, the holder does not enclose the introduced part of the lump piece, as prescribed by the new claim 6. Therefore the present claim is novel over Akerson.

The cutting mechanism 160 in Rombouts comprises arms 164a and 164b forming the elongated holder according to claim 6. After cutting branch 158 by cutting blade 166, the cut-off branch is clamped between two pressure exerting pieces 176 and 178 [0043] and hangs between pieces 176 and 178 (see FIG.9). The holder cannot be considered to enclose the introduced part of the lump piece, as prescribed by the new claim 6. Therefore the present claim is novel over Rombouts.

Regarding the obviousness of amended claims 1 and 6

Enclosing the separated part of the lump piece in the holder according to the invention enables delicate processing during the multiplication of rosette plants. The cited publications do not mention a holder that encloses the introduced part of the lump piece, at least in combination with the cutting

element, along a substantially complete circumference around the longitudinal axis of the holder, so that the sprout retains pointing in a direction remote from a growing medium, nor do they incite it as a solution for enabling delicate handling.

This is no surprise, since in all the publications, there's no need to. Therefore claims 1 and 6 of the present invention are non-obvious over Meester, Groves, Akerson and Rombouts.

In this light, both method claim 1 and apparatus claim 6 are patentable over the cited documents.

Reconsideration and allowance of all the claims are respectfully requested.

III. CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17. Respectfully submitted,

YOUNG & THOMPSON

/Roland E. Long, Jr./
Roland E. Long, Jr., Reg. No. 41,949
209 Madison Street
Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

REL/jr